



OFFICE OF MANAGEMENT AND BUDGET

Date: August 15, 1983

TO : LEGISLATIVE LIAISON OFFICERS
DEPARTMENTS AND AGENCIES

FROM: James M. Frey
Assistant Director for
Legislative Reference

OMB Bulletin No. 83-17, Proposed Actions
Pursuant to Statutes Containing Legislative
Veto Provisions

The material that was previously sent to
you on the above-mentioned subject was
incomplete.

Attached is a complete copy.

Sorry for the inconvenience.



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

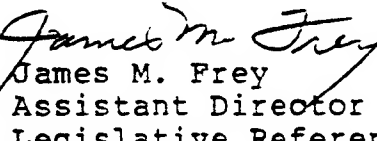
WASHINGTON, D.C. 20503

August 10, 1983

MEMORANDUM FOR LEGISLATIVE LIAISON OFFICERS

SUBJECT: OMB Bulletin No. 83-17, Proposed Actions Pursuant
to Statutes Containing Legislative Veto Provisions

Attached for your reference and use is a copy of OMB Bulletin No. 83-17. Since its scope encompasses regulatory actions, appropriation-related actions, other actions in connection with legislative veto provisions, and oversight testimony on that subject, I wanted to make sure that you have a copy and to request that you call its requirements to the attention of others in your agency who have responsibilities for any of the actions covered by the Bulletin.


James M. Frey
Assistant Director for
Legislative Reference

Attachment



BULLETIN NO. 83-17

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Proposed Actions Pursuant to Statutes Containing
Legislative Veto Provisions

1. Background. The recent decision by the Supreme Court in INS v. Chadha, broadly declaring legislative vetoes to be unconstitutional, requires careful review and coordination of agency actions that will hereafter be taken under statutes that still contain such veto provisions. This will be necessary in order to avoid unnecessary confrontation with the Legislative branch; to assure consideration of the precedential impact of individual actions on the Executive branch as a whole; and to allow the Executive and Legislative branches to accommodate to the Court's decision in a constructive manner.

2. Definition. The term "proposed agency action" shall include the taking of any act, the submission of any notice to the Congress of a proposed action, the submission of a notice to the Federal Register of any proposal for action, or the submission of formal notice required by law or traditionally given to the general public or any defined segment thereof, whichever occurs first.

3. Action Requirements. Where proposed agency actions are subject to legislative veto provisions still set forth in statutory law, the following procedures are to be observed before those actions are implemented:

- o Notices of proposed regulatory actions will continue to be submitted to the OMB Office of Information and Regulatory Affairs, pursuant to Executive Order 12291 or the Paperwork Reduction Act; however, proposed regulatory actions governed by currently enacted legislative vetoes should be expressly identified as such by the agencies.
- o Notices of proposed appropriations-related actions should be delivered to the appropriate OMB budget division; however, those actions that are routine in nature (e.g., the annual submission to the Congress of operating plans) should not be included if prior agreement has been reached with the appropriate OMB budget division to exclude them.

- c. Notices of other proposed agency actions should be delivered to the personal attention of James M. Frey, Assistant Director, Legislative Reference, Room 7202 New Executive Office Building; however, in order to avoid unnecessary reporting, these notices should be sent only in the case of proposed actions that are likely to be of a controversial character.
- d. All Congressional testimony dealing with legislative veto matters, whether of an oversight or legislative character, should be submitted for clearance to the OMB Legislative Reference Division; the procedures of OMB Circular A-19 should be deemed applicable to all such testimony whether expressly applicable by its terms or not,

4. Clearance Requirements. Clearance procedures concerning regulations are established by Executive Order 12291; in all other cases, an agency is not to proceed with the proposed action without affirmative OMB clearance.

5. Procedural Requirements. The following procedures shall apply to the submissions of proposed agency actions (other than proposed testimony) required under paragraph 3:

- a. Notice of proposed agency actions should be given to OMB as early as possible, and in any event at least five working days prior to planned agency submission of the proposed action to the Congress. Early notice is required in order to assure adequate time for OMB review.
- b. When providing notice, the agency should submit to OMB the actual documents that it proposes to send to the Congress, the Federal Register or the general public or any defined segment thereof.
- c. Where the proposed agency action is likely to be of a controversial character, the agency also should submit to OMB a concise statement setting forth all pertinent facts regarding the controversial aspects of the proposed action.
- d. The Director of OMB may define generic categories of proposed agency actions that are likely to be of a controversial character and for which individual submissions are to be made for all proposed actions.

6. Statutes. A list of statutes that contain legislative veto provisions is attached. This list, prepared by the Department of Justice, is intended to be exhaustive, but agencies should report to James M. Frey any currently enacted legislative vetoes not set forth in the attachment. In this regard, it should be noted that the Department of Justice has advised that under the Chadha decision, statutes purporting to empower Congressional committees to waive waiting periods under report-and-wait provisions are unconstitutional.

7. General Provisions. The coordination of these actions by OMB is not intended to supersede or to alter any other review procedures that may be currently applicable to proposed agency actions, including consultations or reports regarding legislative vetoes requested by the Department of Justice.

8. Although these requirements reflect the Administration's determination to avoid unnecessary controversy in connection with proposed agency actions, each agency should clearly understand that these procedures are not to be used as a justification for failing to proceed with discretionary action that the agency believes appropriate to carry out its statutory responsibilities and Administration policies. The procedures of this Bulletin, calling for the exercise of coordinated judgment with regard to potentially controversial actions, are to be understood as facilitating, not impeding, the exercise of appropriate policy discretion by each agency.

9. Because the issues raised by the Chadha decision are of historic importance, your personal attention is requested to assure compliance by your agency with the provisions of this memorandum.

10. Sunset Date. This bulletin will remain in effect until September 30, 1984 unless superseded or rescinded.



David A. Stockman
Director

I. FOREIGN AFFAIRS AND NATIONAL SECURITY

A. War and National Defense

War Powers Resolution, Pub. L. No. 93-148

H.R. J. Res. 683, Pub. L. No. 94-110

National Emergencies Act, Pub. L. No. 94-412

International Emergency Economic Powers Act,
Pub. L. No. 95-223

Neutrality Act of 1939, 54 Stat. 4

Arms Control and Disarmament Act of 1961,
Pub. L. No. 87-297

B. International Assistance and Arms Export
Control

Foreign Assistance Act of 1961, Pub. L.
No. 87-195

Export Administration Act, amended by Depart-
ment of Defense Appropriation Authorization
Act, 1975, Pub. L. No. 93-365

International Development and Food Assistance
Act of 1975, Pub. L. No. 94-161

International Security Assistance and Arms
Control Act of 1976, Pub. L. No. 94-329

International Security Assistance Act of 1977,
Pub. L. No. 95-92

International Development and Security
Cooperation Act of 1980, Pub. L. No.
96-533

International Security and Development
Cooperation Act of 1981, Pub. L. No.
97-113

C. Department of Defense

Defense Reorganization Act of 1958, Pub.
L. No. 85-599

Department of Defense Appropriation Author-
ization Act, 1974, Pub. L. No. 93-155

Department of Defense Authorization Act,
1982, Pub. L. No. 97-86

Department of Defense Authorization Act,
1983, Pub. L. No. 97-252

Military Construction Codification Act,
Pub. L. No. 97-214

Defense Production Act of 1950, Pub. L.
No. 81-774

Defense Production Act Amendments, 1970,
Pub. L. No. 91-379

Energy Security Act, Defense Production Act
Amendments of 1980, Pub. L. No. 96-294

Rubber-Producing Facilities Disposal Act,
Pub. L. No. 83-205

Disposal of Surplus Vessels and Other Naval
Property, Pub. L. No. 79-649

Long-Range Proving Ground for Guided Missiles,
1949, Pub. L. No. 81-60

D. Armed Forces Personnel

Department of Defense Authorization Act, 1981,
Pub. L. No. 96-342

Universal Military Training and Service
Amendments of 1951, Pub. L. No. 82-51

Veterans Health Program Extension and Improve-
ment Act of 1979, Pub. L. No. 96-151

II. IMMIGRATION AND NATIONALITY

Immigration and Nationality Act of 1952,
Pub. L. No. 82-414

Immigration and Nationality Act Amendments,
Pub. L. No. 85-316

III. BUDGET

Congressional Budget and Impoundment Control
Act of 1974, Pub. L. No. 93-344

IV. INTERNATIONAL TRADE

Trade Expansion Act of 1962, Pub. L. No.
87-794

Trade Act of 1974, Pub. L. No. 93-618

Export-Import Bank Amendments of 1974,
Pub. L. No. 93-646

Export Administration Act of 1979 ("EAA"),
Pub. L. No. 96-72

V. ENERGY

Trans-Alaska Pipeline Authorization Act,
Pub. L. No. 93-153

Federal Nonnuclear Energy Research and
Development Act of 1974, Pub. L. No.
93-577

Energy Policy and Conservation Act, Pub. L.
No. 94-163

Naval Petroleum Reserves Production Act of
1976, Pub. L. No. 94-258

Department of Energy Act of 1978 -- Civilian
Applications, Pub. L. No. 95-238

Outer Continental Shelf Lands Act Amendments
of 1978, Pub. L. No. 95-372

Natural Gas Policy Act of 1978, Pub. L.
No. 95-621

Energy Security Act, United States Synthetic
Fuels Corporation Act of 1980, Pub. L.
No. 96-294

Energy Research and Development Administration
Authorization Act, Pub. L. No. 94-187

Department of Energy National Security and
Military Applications of Nuclear Energy
Authorization Act of 1980, Pub. L.
No. 96-164

Department of Energy National Security and
Military Applications of Nuclear Energy
Authorization Act of 1981, Pub. L.
No. 96-540

Department of Energy National Security and
Military Applications of Nuclear Energy
Authorization Act of 1982, Pub. L.
No. 97-90

VI. ATOMIC ENERGY AND NUCLEAR MATERIALS

Atomic Energy Act of 1954, Pub. L. No.
83-703, as amended

Atomic Energy Act Amendment of 1957, Pub. L.
No. 85-79, as amended

Atomic Energy Act Amendments of 1964, Pub. L.
No. 88-489

Atomic Energy Act Amendments of 1974, Pub. L.
No. 93-377

Nuclear Non-Proliferation Act of 1978, Pub. L.
No. 95-242

Nuclear Regulatory Commission Authorization,
Pub. L. No. 97-415

Nuclear Waste Policy Act of 1982, Pub. L.
No. 97-425

VII. FEDERAL PAY AND EMPLOYMENT

Federal Pay Comparability Act of 1970, Pub. L.
No. 91-656

Postal Revenue and Federal Salary Act of 1967,
Pub. L. No. 90-206

Civil Service Reform Act of 1978, Pub. L.
No. 95-454

Central Intelligence Agency Retirement Act
of 1964 for Certain Employees, Pub. L.
No. 88-643

International Development and Food Assistance
Act of 1978, Pub. L. No. 95-424

VIII. LAND AND NATURAL RESOURCES

Water Resources Development Act of 1974,
Pub. L. No. 93-251

Federal Land Policy and Management Act of 1976,
Pub. L. No. 94-579

Marine Protection, Research, and Sanctuaries
Act Amendments, 1980, Pub. L. No. 96-332

National Parks and Recreational Act of 1978,
Pub. L. No. 95-625

Forest and Rangeland Renewable Resources
Planning Act of 1974, Pub. L. No. 93-378

Act to Expedite the Rehabilitation of Federal
Reclamation Projects, Pub. L. No. 81-451

Act to Facilitate the Construction of Drainage
Works, Etc., Pub. L. No. 84-575

Amendment to Watershed Protection and Flood
Prevention Act, Pub. L. No. 87-639

Imperial Dam Project Modifications -- Colorado
River Basin Salinity Control Act, Pub. L.
No. 93-320

Conveyance of Submerged Lands to Guam, Virgin
Islands, and American Samoa, Pub. L.
93-435

Olympic National Park -- Authority to Accept
Land, Pub. L. No. 94-578

Alaska National Interest Lands Conservation
Act, Title IX, Implementation of Alaska
Native Claims Settlement Act and Alaska
Statehood Act, Pub. L. No. 96-487

IX. INDIAN AFFAIRS

Indian Claims Judgment Funds Act, 1973,
Pub. L. No. 93-134, as amended

Menominee Restoration Act, Pub. L. No.
93-197

Restoration of Indian Tribes of Unclaimed
Payments, 1961, Pub. L. No. 87-283

Government-Owned Utilities Used for Bureau of
Indian Affairs, 1961, Pub. L. No. 87-279

Act of July 1, 1932, Pub. L. No. 72-240,
as amended

Education Amendments of 1978, Pub. L. No.
95-561

X. TRANSPORTATION

Regional Rail Reorganization Act of 1973,
Pub. L. No. 93-236

Union Station Redevelopment Act of 1981,
Pub. L. No. 97-125

Federal-Aid Highway Act of 1976, Pub. L.
No. 94-280

Energy Policy and Conservation Act, Pub. L.
No. 94-163, amending the Motor Vehicle
Information and Cost Savings Act

Revisions of Title 49, U.S.C.A., Pub. L.
No. 97-449

XI. DISTRICT OF COLUMBIA

District of Columbia Self-Government and
Governmental Reorganization Act, Pub. L.
No. 93-198

District of Columbia Retirement Reform Act,
Pub. L. No. 96-122

Pennsylvania Avenue Development Corporation
Act of 1972, Pub. L. No. 92-578

Dwight D. Eisenhower Memorial Bicentennial
Civic Center Act, Pub. L. No. 92-520

XII. AGRICULTURE

Futures Trading Act of 1978, Pub. L. No.
95-405

Agriculture and Food Act of 1981, Pub. L.
No. 97-98

Taft Anti-Inflation Law, Pub. L. No. 80-395

XIII. RULEMAKING

Department of Education Organization Act,
Pub. L. No. 96-88

Education Amendments of 1974, Pub. L. No.
93-380

Education Amendments of 1978, Pub. L. No.
95-561

Education Amendments of 1980, Pub. L. No.
96-374

Student Financial Assistance Technical
Amendments Act of 1983, Pub. L. No.
97-301

Federal Election Campaign Act Amendments,
Pub. L. No. 93-443

Federal Election Campaign Act Amendments of
1979, Pub. L. No. 96-187

Federal Rules of Evidence, Pub. L. No.
93-595

Airline Deregulation Act of 1978, Pub. L. No.
95-504

Federal Trade Commission Improvements Act of
1980, Pub. L. No. 96-252

Multiemployer Pension Plan Amendments Act of
1980, Pub. L. No. 96-364

Farm Credit Act Amendments of 1980, Pub. L.
No. 95-592

Comprehensive Environmental Response,
Compensation and Liability Act of 1980
Pub. L. No. 96-510

National Historic Preservation Act Amendments
of 1980, Pub. L. No. 96-515

Coastal Zone Management Improvement Act of
1980, Pub. L. No. 96-464

Federal Insecticide, Fungicide and Rodenticide
Extension Act, 1980, Pub. L. No. 96-539

Motor Vehicle and Schoolbus Safety Amendments
of 1974, Pub. L. No. 93-492

Presidential Recordings and Materials
Preservation Act, Pub. L. No. 93-526

Amendment to Social Security Act Child Support
Provisions, Pub. L. No. 94-88

Omnibus Budget Reconciliation Act of 1981,
Consumer Product Safety Amendments of
1981, Pub. L. No. 97-35

Emergency Interim Consumer Product Safety
Standard Act of 1978, Pub. L. No. 95-319

Omnibus Budget Reconciliation Act of 1981,
Rail Passenger Service Act, Pub. L. No.
97-35

Omnibus Budget Reconciliation Act of 1981,
Amendment to Highway Safety Programs,
Pub. L. No. 97-25

International Navigational Rules Act of 1977,
Pub. L. No. 95-75

Social Security Amendments of 1977, Pub. L.
No. 95-216

Housing and Community Development Amendments
of 1978, Pub. L. No. 95-557

XIV. APPROPRIATIONS ACTS

Energy and Water Development Appropriations
Act, 1982, Pub. L. No. 97-88

Appropriations -- Department of the Interior --
Fiscal Year 1982, Pub. L. No. 97-100

Department of Interior and Related Agencies
Appropriations Act, 1983, Pub. L. No.
97-394

Department of Housing and Urban Development --
Independent Agencies Appropriations Act,
1982, National Aeronautics and Space
Administration Research and Development
Appropriation, Pub. L. No. 97-101

Department of Housing and Urban Development --
Independent Agencies Appropriations Act,
1983, National Aeronautics and Space
Administration Research and Development
Appropriation, National Science Foundation
Research and Related Activities Appropria-
tion, Pub. L. No. 97-272

Department of Housing and Urban Development --
Independent Agencies Appropriations Act,
1983, Pub. L. No. 97-272

Department of Housing and Urban Development --
Independent Agencies Appropriations Act,
1984, National Aeronautics and Space
Administration Appropriation, Pub. L.
No. 98-45

Department of Transportation and Related
Agencies Appropriations Act, 1983, Pub. L.
No. 97-369

Foreign Assistance and Related Programs
Appropriations Act, 1982, Pub. L. No.
97-121

District of Columbia Appropriations Act, 1983,
Pub. L. No. 97-378

Joint Resolution Making Continuing Appropria-
tions for the Fiscal Year 1982, Pub. L.
No. 97-92

Supplemental Appropriations Act, 1982, Pub. L.
No. 97-257

Further Continuing Appropriations Act, 1983,
Pub. L. No. 97-377

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XV. MISCELLANEOUS

Full Employment and Balanced Growth Act of
1978, Pub. L. No. 95-523

Omnibus Budget Reconciliation Act of 1981,
Post Secondary Student Assistance Amend-
ments of 1981, Pub. L. No. 97-35

National Aeronautics and Space Administration
Authorization Act, 1983, Pub. L. No.
97-324

National Aeronautics and Space Administration
Authorization Act, 1984, Pub. L. No.
98-

Enactment of Title 44, United States Code,
"Public Printing and Documents," 1968,
Pub. L. No. 90-620

United States Information and Educational
Exchange Act of 1948, Pub. L. No. 80-402